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State v. Edghill Appellant's Reply Brief Dckt. 40477

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STATE OF IDAHO,

VS.

Defendant-Appellant.

Appellant's Reply Brief

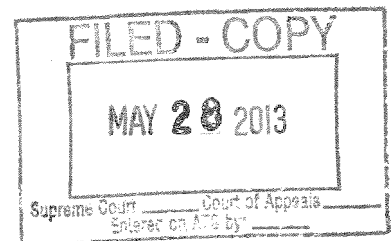


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I.

STATEMENT OF THE CASE

A. Nature of the Case

On September 17, 1997, the Appellant, Teddy Lynn Edghill, was driving a jeep on private property with a valid driver's license. Several children were riding on the front bumper of the vehicle. At some point, one of the children who was riding on the front bumper either jumped or fell off the front bumper and was run over by the jeep. The minor child died a short time later from the injuries sustained in the accident. Edghill was charged with vehicular manslaughter. I.C. § 18-4006(3)(a). Edghill pled guilty and was sentenced to a unified six-year term of incarceration, with three years fixed. The District Court also suspended Edghill's driver's license for life, however the District Court also ruled that Edghill could come back to the Court after ten years and request to have his driving privileges reinstated. The District Court also retained jurisdiction in this matter. At the expiration of the retained jurisdiction period, the District Court suspended execution of Edghill's sentence and placed him on probation for a period of four years. After the expiration of the ten years, Edghill requested the Court to reinstate his driving privileges. Judge Don L. Harding granted Edghill restricted driving privileges on three separate occasions for various lengths of time. After the third period of restricted driving privileges granted by Judge Harding had expired, Edghill filed a motion to reinstate his driving privileges. Judge Mitchell W. Brown denied this motion and removed the portion of Edghill's sentence which allowed him to have his driving privileges reinstated after ten years, claiming the Court had no jurisdiction to grant Edghill driving privileges and that the sentence imposed by Judge Harding was illegal. Thus, Judge Brown sentenced Edghill to a lifetime ban of driving privileges without any possibility of

having his driving privileges reinstated. Edghill then filed a Rule 35 motion requesting the Court to correct the illegal sentence and reinstate Edghill's driving privileges. The District Court denied Edghill any relief on his Rule 35 motion.

ISSUES RAISED BY THE STATE

1. Has Edghill failed to show the district court's order should be reversed where the court correctly applied the facts and law pursuant to Edghill's motion, but the result was unfavorable to Edghill?

2. Is Edghill precluded from rearguing that his original sentence was illegal?

The appellant rephrases the State's issues as:

1. Can the State present any case law to show that the District Court correctly applied the facts to Edghill's motion?

2. Is Edghill precluded from appealing the sentence imposed by Judge Brown?

ARGUMENT

1. Can the State present any case law to show that the District Court correctly applied the facts to Edghill's motion?

Introduction

The State would like to argue that the law in Idaho is that a Rule 35 Motion is strictly limited to the correction of the illegal portion of an illegal sentence. The State then infers from the claim that if the District Court is strictly limited to the correction of the illegal portion of a sentence, then the District Court in this case can only strike the portion of the sentence that allowed Edghill the ability to have his driving privileges reinstated after ten years.

1. Standard of Review

The District Court states in the Memorandum Decision and Order on Defendant's Rule 35 Motion dated October 2, 2012, "While this Court could not find any Idaho case law directly on point, the Ninth circuit has clearly held in *U.S. v. Jordan*, 895 F.2d 512 (9th Cir. 1989), that "Rule 35 is strictly limited to the correction of the illegal portion of an illegal sentence." Marcel Jordan was a Defendant in Federal Court convicted on nineteen counts of mail fraud. The sentencing Judge imposed twelve years of incarceration on every count and ordered that all of the nineteen counts be served concurrently. The maximum sentence for mail fraud was five years and so Jordan filed a Rule 35 motion to correct the illegal sentence. The District Court then resentenced Jordan to a term of two years of incarceration on six of the counts and ordered the six counts to run consecutively. The Ninth Circuit Court of Appeals remanded the case for resentencing and ordered that the new sentences be restructured as concurrent terms of no more than five years each. The Ninth Circuit stated the District Court could not amend the sentence to have the counts run consecutively. Such precedence provides little if any direction in the present case. First, the ruling was not based on Idaho Criminal Rule 35. The fact that Jordan had his term of

incarceration reduced from twelve years to five years is also of little assistance to the Court in this case.

The case law in *Jordan* only dealt with the issue of what the sentencing court should do when the original term of incarceration is in excess of the legal maximum. There was no discussion as to how a sentencing court can correct an illegal sentence dealing with the issue of driving privileges or anything similar to such a condition. This is a case of first impression in the State of Idaho and a clear rule should be set to give meaningful guidance to a District Court when resentencing a Defendant who received an illegal sentence. The government in *Jordan* requested the Court to enter a clear rule and cited the case of *United States v. Lopez*, 706 F.2d 108, 109-10 (2d Cir. 1983). If there was a clear rule that a District Court could correct an illegal sentence so long as the Court does not make the length of incarceration or the other conditions placed on the Defendant harsher than the original sentence, the District Court in the above entitled case could have properly corrected Edghill's sentence. When the District Court corrected the illegal sentence in this case, the Court should have considered the facts of this case and what had transpired since the original sentence was imposed on May 21, 1998. Often a sentencing court wishes that they could have a crystal ball to see into the future before imposing a sentence. In this case the District Court was afforded fourteen years into the future to review before the Court imposed an appropriate sentence and did not do so.

ARGUMENT

1. Can the Defendant appeal the sentence of Judge Brown?

Introduction

The State would like this Court to deny Edghill any relief because he is appealing the sentence of Judge Harding. Edghill is not appealing the sentence of Judge Harding, but rather the sentence of Judge Brown. There is no doubt that the sentence give by Judge Harding and the sentence imposed by Judge Brown are not the same. Judge Harding's sentence allows Edghill the possibility to have his driving privileges reinstated after a ten year suspension of his driving privileges. Judge Brown's sentence suspends the driving privileges of Edghill for the duration of his life.

2. Standard of Review

While the *Jordan* case provided little if any direction for the Court in the present case, the Court in *Jordan* and the cases discussed in *Jordan* all refer to the sentence a defendant receives after it has been determined that the original sentence the defendant received was an illegal sentence as a "new sentence." These Courts also on multiple occasions referred to the sentence that a defendant receives after his original sentence has been declared illegal as a "resentencing." Because of the major difference in the sentences Edghill received from Judge Harding and Judge Brown concerning the length of the suspension of the driving privileges and the fact that the sentence received from Judge Brown was a "new sentence" or a "resentencing," Edghill is appealing the sentence of Judge Brown and not the original sentence imposed by Judge Harding. Therefore the principle of untimeliness, and the doctrine of waiver and the doctrine of res judicata do not apply.

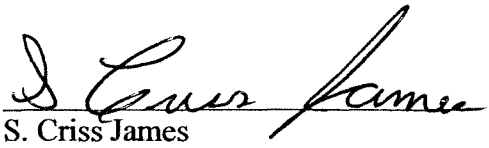
CONCLUSION

There is no objective information set forth in Judge Brown's Memorandum Decision and Order explaining why Edghill should receive a harsher sentence on resentencing other than Judge

Brown believed the Court did not have ongoing jurisdiction to oversee Edghill's driving privileges. The harsher sentence imposed on Edghill was not deserved and is an abuse of discretion. Edghill successfully completed the Retained Jurisdiction Program and successfully completed his probation. Edghill did not have any further violations of the law except for a charge of an invalid license in 2005. TR. February 16, 2012 Hearing, P. 31 L. 8-14. Edghill has become a productive member of society. Edghill has a consistent work history and had been employed for the same construction company for the past five years TR. February 16, 2012 Hearing P.10 L.22-25. Edghill is a member of the local volunteer fire department TR. February 16, 2012 Hearing P.15 L.7-9. Edghill had made the type of progress in his life that should have allowed him to have his driving privileges reinstated.

The lifetime suspension of Edghill's driving privileges is unduly harsh. Edghill was twenty-nine years old when the accident occurred which resulted in him being charged with vehicular manslaughter. At that time he had been legally driving for 12 or 13 years and his only driving offense up until that point was a speeding ticket. TR. February 16, 2012 Hearing P.10. L. 1-14. Teddy Edghill respectfully request this matter be remanded to the District Court for a resentencing with an instruction that the District Court can correct this sentence as long as the terms and conditions of the new sentence are not harsher than the original sentence.

DATED this 28th day of May, 2013.


S. Criss James
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of May, 2013, I served a true and correct copy of the foregoing document on the following by the method indicated:

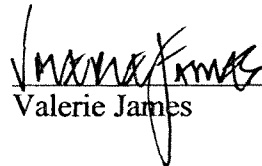
ATTORNEY(S)/PERSON(S)

METHOD

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DATED this 18th day of May, 2013



Valerie James